



**OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN**

**GERALD C. MANN  
ATTORNEY GENERAL**

**Honorable F. L. Nassie  
County Auditor  
Wilbarger County  
Vernon, Texas**

**Dear Sir:**

**Opinion No. 0-3931**

**Re: The proper compensation  
for judge and clerks hold-  
ing a county airport bond  
election.**

**We have received your written request for an opinion  
from this department. We quote from your request:**

**"On August 28th, Wilbarger County, Texas,  
held an Election (County Wide) for the purpose  
of voting on the issuance of \$25,000.00 in  
Bonds, for the purpose of buying a site for  
an Air Port site, the bonds not to bear more  
than 3% interest, and to be due in 20 years  
with an option of paying off the remaining  
balance at the expiration of the 10th year.**

**"Under Article No. 2938 Revised Civil  
Statutes, all Judges and Clerks shall be paid  
\$2.00 per day and \$2.00 extra to the Presiding  
Judge for making the returns of the Election.**

**"Under Article No. 2943 Revised Civil  
Statutes, it provides that the Judges and  
Clerks of a General or Special Election shall  
be paid \$3.00 a day each and .30 cents per  
hour for any time in excess of a days work,  
consisting of 10 hours.**

**"Is such an election as above mentioned a  
Special Election under the Statute, and what**

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in your opinion is properly due the Judge and Clerks for holding such an Election.

The authority for holding such an election, as referred to in your request, is Article 1269h, Section 2 of Vernon's Civil Statutes of Texas which provides:

"Sec. 2. For the purpose of condemning or purchasing either or both, lands to be used and maintained as provided in Section 1 hereof, and improving and equipping the same for such use, the governing body of any city or the Commissioners' Court of any county, falling within the terms of such Section, may issue negotiable bonds of the city or of the county, as the case may be, and levy taxes to provide for the interest and sinking funds of any such bonds so issued, the authority hereby given for the issuance of such bonds and levy and collection of such taxes to be exercised in accordance with the provisions of Chapter 1 of Title 22 of the Revised Civil Statutes of 1925."

Article 704 (of Chapter 1 of Title 22, referred to in the foregoing statute) of Vernon's Civil Statutes, as amended, provides, in part:

"\* \* \*. Except as herein provided, the manner of holding said election shall be governed by the laws governing general elections."

We have found no statutes specifically covering the particular kind of election under consideration herein and providing the compensation for the election judge and clerks holding the same.

In our Opinion No. 0-3682, a copy of which is enclosed, this department discussed the applicability of either Article 2938 or Article 2943 of Vernon's Civil Statutes of Texas with reference to the special senatorial election, just held, and the pay of those holding said election. We held in that opinion that Article 2943 was a later act and controlled as to the compensation of those holding such election. The reasons for such holding are fully discussed in said opinion.

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We are of the opinion that the airport bond election, referred to in your request, is a special election. See Opinion No. 0-1323, a copy of which is enclosed and the authorities cited therein; 20 S. J. 56. Since such an election is a special election it follows that the judge and clerks that held the election, inquired about, should be compensated in accordance with Article 2943, supra, and not in accordance with the compensation provided in Article 2938, supra.

We trust that in this manner we have answered each of your inquiries.

Yours very truly

APPROVED SEP 29, 1941

ATTORNEY GENERAL OF TEXAS

*W. W. Sullivan*  
FIRST ASSISTANT  
ATTORNEY GENERAL

By *Harold M. McCracken*  
Harold McCracken  
Assistant

EM:RS

ENCLOSURES

